

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS****NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in D.C. Official Code § 47-2853.10 (a)(12) and Mayor's Order 2000-70, dated May 2, 2000, hereby gives notice of the intent to adopt, in not less than thirty (30) days from the date of publication of this notice in the D.C. Register, an amendment to Chapter 32 (Interior Designers) of Title 17 of the District of Columbia Municipal Regulations (DCMR). This rulemaking amends Interior Designer licensing rules and administrative procedures in order to reflect changes in the law and the profession.

17 DCMR Chapter 32 is amended to read as follows:

**CHAPTER 32 INTERIOR DESIGNERS**

## Secs.

3200	Applicability
3201	General Provisions
3202	Licensure by Examination
3203	Education
3204	Reciprocal Licensure
3205	Display of License
3206	Term of License
3207	License Renewal
3208	Inactive Status
3209	Scope of Practice
3210	Continuing Education Requirements for Licensees
3211	Approved Continuing Education Programs
3212	Disciplinary Actions
3213	Rules of Conduct/Code of Ethics
3214	Seal of an Interior Designer
3299	Definitions

**3200 APPLICABILITY**

- 3200.1 This chapter shall apply to applicants for and holders of a license to practice interior design.
- 3200.2 Chapter 33 of this Title shall supplement this chapter.
- 3200.3 The provisions of this chapter shall prevail in the event of a direct and irreconcilable conflict between this chapter and Chapter 33 of this Title.

**3201 GENERAL PROVISIONS**

- 3201.1 The Board of Architecture and Interior Designers (hereinafter referred to as the "Board"), established by the Second Omnibus Regulatory Reform Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.01 et seq.), shall be under the administrative control of the Mayor through the Department of Consumer and Regulatory Affairs (hereinafter referred to as the "Department").
- 3201.2 Each interior designer member of the Board must be a licensed interior designer.
- 3201.3 The Board shall, at its offices, maintain a record of duly licensed interior designers that shall include their name, license number, and last known mailing address.
- 3201.4 Communications with Board members and Board staff shall be limited as follows:
- (a) Prior to the filing of an application or after final Board action on an application, verbal and written communication with individual Board members or any member of the Board's staff shall be freely permitted; provided, however, that no member of the Board or its staff is authorized to give any indication of what specific action the Board may take upon the merits of any application which may be filed with it;
  - (b) Advice of a general nature may be given as to the manner of completing or submitting applications, the procedures to be followed in processing applications, and the nature of the Board's standards in evaluating applications; and
  - (c) While an application for licensure or an enforcement proceeding is pending before the Board, no communications may be initiated with any individual Board member concerning the matter; any inquiries must be made orally or in writing to the Board staff or in writing to the Board.
- 3201.5 The Board may maintain membership in the National Council for Interior Design Qualification (NCIDQ). As part of the Board's activities, the Board shall endeavor to keep up-to-date information on the recommended policies adopted by NCIDQ. The Board may cooperate with NCIDQ in establishing uniform standards of interior design registration throughout the United States, but is under no obligation to do so.
- 3201.6 Any forms prepared in accordance with this chapter or the Act shall be made available upon request.
- 3201.7 Fees associated with licensure and registration may be found in Title 17 DCMR Chapter 35.
- 3201.8 The Department shall maintain copies of all records and papers pertaining to licensure, certification, registration, inspections, investigations, and other matters under the jurisdiction of the Board. Copies of all records and papers duly certified and authenticated by the Board or its staff shall be received in evidence in all courts equally

and with like effect as the original.

- 3201.9 Public records kept by the Department on behalf of the Board under the authority of this section shall be open to public inspection pursuant to the D.C. Freedom of Information Act. None of any licensed interior designer's examination record shall be considered public record.
- 3201.10 The Board shall meet in public session not less than four (4) times per year and shall publish notice of the time and place of each public meeting in the D.C. Register at least one (1) week in advance of the meeting. The public has the right to appear before the Board and testify on subjects within the Board's jurisdiction.
- 3201.11 The Chairperson shall be elected from among the members of the Board and shall have authority to sign all official documents issued on behalf of the Board, after approval by the Board.
- 3201.12 Four (4) members of the Board shall constitute a quorum.
- 3201.13 Once quorum is established, a majority vote of all Board members present and voting is necessary for any action taken by the Board.
- 3201.14 Board members may convene in committees of no less than three (3) Board members to carry out specific functions of the Board, provided the full Board ratifies the actions of any committee.

## **3202 LICENSURE BY EXAMINATION**

- 3202.1 Except as otherwise provided in this chapter, in order to be licensed to practice interior design, an applicant shall pass the examination administered by the National Council for Interior Design Qualification (NCIDQ).
- 3202.2 An applicant who passed the national examination prior to the effective date of this chapter shall not be required to retake the examination.
- 3202.3 The passing score on the national examination shall be a passing score on each section that forms a part of the examination by the NCIDQ.

## **3203 EDUCATION**

- 3203.1 Applicants shall possess a current certificate from NCIDQ showing that they have met NCIDQ's education and experience requirements.
- 3203.2 Applicants shall include a certified copy of the NCIDQ certificate with their application.

## **3204 RECIPROCAL LICENSURE**

3204.1 An applicant for a license by reciprocity shall furnish proof satisfactory to the Board that the following requirements are met:

- (a) The applicant is licensed and in good standing as an interior designer in a jurisdiction of the United States with requirements that are substantially equivalent to the requirements of the Act and this chapter;
- (b) The jurisdiction in which the applicant is licensed admits interior designers licensed by the District of Columbia in like manner; and
- (c) The applicant has paid the required fees to the District.

**3205 DISPLAY OF LICENSE**

3205.1 A licensee shall display his or her license conspicuously in the licensee's principal place of business or employment.

**3206 TERM OF LICENSE**

3206.1 A license to practice interior design shall expire at midnight of October 31st of each even numbered year.

**3207 LICENSE RENEWAL**

3207.1 A licensed interior designer shall not file an application for renewal if the Board has suspended the applicant's license.

3207.2 At least sixty (60) days prior to the expiration of a license, the Board shall send a renewal application by first class mail to the holder of a license at the licensee's known address on record with the board.

3207.3 A holder of a license shall meet all of the requirements for license renewal prior to the issuance of the renewal.

3207.4 A holder of a license shall provide the Board a street address for the licensee's residence, not a post office box, and shall notify the Board in writing of any change of home or business address within thirty (30) days of the change.

3207.5 The failure of a holder of a license to receive the notice required by § 3207.2 of this chapter does not relieve the holder of the responsibility of renewing the license.

3207.6 An applicant for renewal of an interior designer's license shall submit the renewal application in a timely manner to the Board and shall complete the continuing education requirements before the expiration date of the license.

- 3207.7 Unless an extension of time has been granted pursuant to § 3210 of this chapter, the Board shall deny an application for renewal if the applicant has not completed the continuing education requirements prior to the expiration date of the license.
- 3207.8 A holder of a license who fails to renew before the expiration date may renew the license within sixty (60) days after expiration by completing all renewal requirements and paying an additional late renewal fee. Upon renewal, the holder shall be deemed to have possessed a valid license during the period between the expiration of the license and its renewal.
- 3207.9 If an applicant for renewal of a license fails to submit proof of completion of continuing education requirements or pay the late renewal fee within sixty (60) days after the expiration of the applicant's license, the license shall be considered to have lapsed on the date of expiration.
- 3207.10 Denial of an application for renewal for failure to complete the continuing education requirements shall require the applicant to complete the continuing education requirements prior to submitting an application for reinstatement.

**3208 INACTIVE STATUS**

- 3208.1 Upon application by a licensee and payment of the required fee, the Board shall place a licensee on inactive status.
- 3208.2 While on inactive status, an individual shall not practice, attempt to practice, or offer to practice interior design in the District of Columbia.
- 3208.3 A licensee may remain on inactive status for up to five (5) years from the date of application and shall notify the Board of any address change within thirty (30) days of the change.
- 3208.4 The Board shall issue a license to an individual who is on inactive status and who desires to resume practice, if the individual meets the following requirements:
- (a) Files an application with the Board;
  - (b) Pays the required fees;
  - (c) Demonstrates compliance with all continuing education requirements; and
  - (d) Complies with all current requirements for license renewal.
- 3208.5 A lapsed license cannot be placed on inactive status. The license must first be reinstated, as provided in D.C. Official Code § 47-2853.15, provided the license has not been expired for more than five (5) years.

**3209 SCOPE OF PRACTICE**

- 3209.1 For the purposes of this chapter, the term "practice of interior design" means providing or offering to provide consultations, preliminary studies, drawings, specifications, or any related service for the design analysis, programming, space planning, or aesthetic planning of the interior of buildings, using specialized knowledge of interior construction, building systems and components, building codes, fire and safety codes, equipment, materials, and furnishings, in a manner that will protect and enhance the health, safety, and welfare of the public whether one or all of these services are performed either in person or as the directing head of an organization. The practice of interior design does not include the practice of architecture, as defined in D.C. Official Code § 47-2853.61.
- 3209.2 This chapter shall not require a license for, or restrict or prohibit an individual from engaging in, any activity or service described in § 3209.1 of this chapter, if the individual is a licensed architect engaged in the practice of architecture pursuant to the laws of the District of Columbia. An individual licensed as an architect may not utilize the title "Interior Designer" unless the individual is also a licensed interior designer.
- 3209.3 For the purposes of this chapter, the issuance of a building permit by the Department under the authority of the District of Columbia Construction Codes shall not constitute a license to engage in an activity or service enumerated in § 3209.1 of this chapter.

**3210 CONTINUING EDUCATION REQUIREMENTS FOR LICENSEES**

- 3210.1 A continuing education credit shall be valid only if it is part of a program approved by the Board in accordance with § 3211 of this chapter.
- 3210.2 An applicant for renewal of a license shall submit proof pursuant to this section of having completed ten (10) contact hours of credit in approved continuing education programs during the term of the license.
- 3210.3 An applicant under this section shall prove completion of required continuing education credits by submitting with the renewal application the following information with respect to each program:
- (a) The name and address of the sponsor of the program;
  - (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
  - (c) The dates on which the applicant attended the program;
  - (d) The hours of credit claimed; and

(e) A certificate of successful completion from the sponsor or provider.

3210.4 The Board may, in its discretion, grant an extension of the sixty (60) day period, up to a maximum of one (1) year, for renewal after expiration, if the applicant's failure to submit proof of completion of continuing education requirements was for good cause.

3210.5 For purposes of this section, "good cause" includes the following:

(a) Serious and protracted illness of the applicant; or

(b) The death or serious and protracted illness of a member of the applicant's immediate family.

3210.6 An extension granted under this section shall not relieve an interior designer from complying with the continuing education requirement for the next renewal period.

### **3211 APPROVED CONTINUING EDUCATION PROGRAMS**

3211.1 The Board, at its sole discretion, may approve continuing education programs that contribute to the growth of an applicant in professional competence in the practice of interior design and which meet the other requirements of this section.

3211.2 To qualify for approval by the Board, a continuing education program shall:

(a) Provide instruction in one of the following subjects:

(1) An area of practice enumerated in § 3209 of this chapter;

(2) An area of knowledge which advances consumer protection; or

(3) An area of health, safety, and welfare; and

(b) Be prepared, offered, administered, or accepted by an entity holding organizational membership in the Interior Design Continuing Education Council (IDCEC) or its successor organization.

3211.3 Prior to attending a program, an applicant must verify whether IDCEC has approved the program.

### **3212 DISCIPLINARY ACTIONS**

3212.1 Upon providing notice and an opportunity for hearing in accordance with the Act and Chapter 33 of this Title, the Board may revoke, suspend, refuse to renew, or deny an application for a license by a licensee or applicant for any violation of this Chapter or the Act.

3212.2 If the Board determines that there is a violation of this chapter or the Act, the Board may take any of the actions specified in § 3212.1 of this chapter or any one or more of the following lesser actions:

- (a) Reprimand the interior designer;
- (b) Place the interior designer on probation for a specified period;
- (c) Impose limitations on the license of the interior designer; or
- (d) Require a course of remediation approved by the Board that may include retraining and, at the discretion of and in the manner prescribed by the Board, reexamination.

3212.3 If the Board places an interior designer on probation, imposes a limitation on the license of an interior designer, or requires a course of remediation, the Board may provide that if the interior designer fails to satisfy the conditions of probation, observe the limitations imposed on the license, or complete the course or remediation, the Board may suspend or revoke the interior designer's license.

### **3213 RULES OF CONDUCT/CODE OF ETHICS**

3213.1 Obligations of a licensed interior designer

- (a) A licensed interior designer shall:
  - (1) Conform to existing laws, regulations, and codes governing procedures and the practice of interior design as established by the jurisdictions in which he or she conducts business;
  - (2) Maintain appropriate license in good standing in any jurisdiction in which he or she conducts business;
  - (3) Perform professional services with consideration to the health, life, safety, and welfare of the public;
  - (4) Serve his or her clients by only undertaking projects and responsibilities within his or her professional capacity and competence and within the definition according to the laws of his or her license;
  - (5) Clearly set forth the scope and nature of a project, services to be performed, and all methods of compensation for those services;



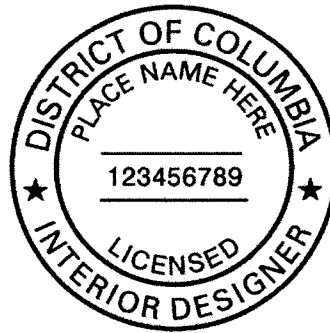
- (6) Fully disclose to the end user all compensation in connection with a project and refuse to accept any form of undisclosed compensation from any person, firm, or vendor connected to the project; and
- (7) Disclose to the regulating jurisdiction any knowledge he or she might have regarding unlicensed activity or other violations of the jurisdiction's statutes by other persons.

(b) A licensed interior designer shall not:

- (1) Seal or sign drawings, specifications or other interior design documentation except where the licensed interior designer has prepared, supervised or professionally reviewed and approved such documents, as allowed by relevant jurisdictional law;
- (2) Engage in any form of misleading or false advertising or promotional activities nor imply, through advertising or any other means, that staff members or employees of his or her firm are licensed unless such is fact;
- (3) Engage in conduct involving fraud, deceit, misrepresentation or dishonesty in professional or business activity, by either affirmative act or failure to act;
- (4) Attempt to obtain a contract to provide interior design services or assist others in such an attempt through any unlawful means;
- (5) Offer or make payment or gifts to any public official or stake holder with the intent to influence or compromise their judgment;
- (6) Assist or abet improper or illegal conduct of anyone in the performance of interior design services;
- (7) Materially change the scope or nature of a project without the client's consent; or
- (8) Conceal or fail to disclose any criminal record or suspension or revocation of license in any jurisdiction.

#### **3214 SEAL OF AN INTERIOR DESIGNER**

3214.1 Each licensed interior designer shall procure a seal, which shall contain the name of the licensed interior designer, his or her license number, and the words LICENSED INTERIOR DESIGNER-DISTRICT OF COLUMBIA. This seal shall comply in all respects, including size and format, with the specimen shown below:



- 3214.2 Any interior design construction documents, including drawings, plans, specifications, or reports prepared or issued by the licensed interior designer and being filed for public record with any jurisdiction or local building department for the purposes of obtaining a building permit, shall bear the signature and seal of the licensed interior designer who prepared or approved the document and the date on which they were sealed. The seal shall be evidence of the authenticity of the document. Interior design construction documents bearing the seal of a licensed interior designer shall be accepted for filing by the appropriate jurisdiction or local building department.
- 3214.3 No licensed interior designer shall affix or permit to be affixed his or her seal or signature to any plan, specification, drawing, or other document which depicts work which he or she is not competent to perform.
- 3214.4 No licensed interior designer shall affix his or her signature or seal to any plan, specifications or other document that was not prepared by him or her or under his or her responsible supervisory control or by another interior designer and reviewed, approved, or modified and adopted under his or her responsible supervisory control according to the rules adopted by the Board.
- 3214.5 When the license of a licensed interior designer has been revoked or suspended by the Board, the licensed interior designer shall surrender his or her seal to the secretary of the Board within a period of thirty (30) days after the revocation or suspension has become effective. If the license of the interior designer has been suspended for a period of time, his or her seal shall be returned upon expiration of the suspension period. The seal shall not be used for any purpose after the effective date of any suspension or revocation.
- 3214.6 The licensed interior designer, when affixing his or her seal to plans, drawings, specifications, or other instruments of services, shall affix his or her name, by handwritten signature, across the printed image of the seal.
- 3214.7 All plans, drawings, specifications, or other instruments of services shall be identified as interior design documents.

### 3299 DEFINITIONS

- 3299.1 As used in this chapter, the following words and phrases shall have the meanings as-

cribed:

**Act** - The Second Omnibus Regulatory Reform Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.01 et seq.) (2001).

**Aesthetic planning** – The selection of colors, materials, and finishes to appropriately convey the design concept, and to meet socio-psychological, functional, maintenance, life-cycle performance, environmental, and safety requirements.

**Applicant** – A person who has submitted an application for licensure to the Board.

**Board** - The Board of Architecture and Interior Designers, as established by the Act.

**Building shell** - The architecture of an existing building, including the framework, the perimeter/exterior walls, the building core and columns, and other structural, load-bearing elements of the building.

**Contact hour** - A period of sixty (60) minutes of instruction in a continuing education program. One (1) contact hour equals one tenth (0.1) of a continuing education unit.

**Construction documents** - The detailed drawings that define the work to be constructed. This may include partition plans, power and communications plans, reflected ceiling plans, material and finishes plans, and furniture layout plans, as well as elevations, sections and details, along with the drawings of associated consultants.

**Consultations** - Research and analysis of the client's goals and requirements, and the development of documents, drawings, and diagrams that outline those needs.

**Design analysis** - Building design based on systematic, behavioral, or user criteria, rather than intuitively developed notions of what is required.

**Environmental** - The aggregate of the physical conditions of the interior environment that affects the health and safety of the occupants, including air quality and circulation, temperature control, ergonomic layout, physical circulation plan, and related matters.

**IDCEC** – The Interior Design Continuing Education Council.

**Interior design** - A multi-faceted profession in which creative and technical solutions are applied within a structure to achieve a built interior environment. These solutions are functional, enhance the quality of life and culture of the occupants, and are aesthetically attractive. Designs are created in response to and coordinated with the building shell, and acknowledge the physical location and social context of the project. Designs must adhere to code and regulatory requirements, and encourage the principles of environmental sustainability. The interior design process follows a systematic and coordinated methodology, including research, analysis, and integration of knowledge into the creative process, whereby the needs and resources of the client are satisfied to produce an interior space that fulfills the project goals.

**Licensed interior designer** - A person licensed to practice interior design under this chapter who is qualified by education, experience, and examination to affect the function, safety and quality of interior spaces and who renders or offers to render interior design services.

**Maintenance** - The ability of a product or material to be kept to its proper condition, and the work required to sustain that condition over the life of that material.

**National examination** - The examination administered by the National Council for Interior Design Qualification.

**NCIDQ** - The National Council for Interior Design Qualification.

**Partition** - A wall that does not support a vertical load of a structure other than its own weight, but that may support loads attached to it such as cabinetry, shelving, or grab bars; and that does not extend further than from the floor of an interior area of a structure designed for human habitation or occupancy to the underside of the deck of that structure.

**Programming** - The scope of work which includes conducting research; identifying and analyzing the needs and goals of the client or occupant of the space; evaluating existing documentation and conditions; assessing project resources and limitations; identifying life, safety, and code requirements; and developing project schedules and budgets.

**Reflected ceiling plan** - A ceiling design that illustrates a ceiling as if it was projected downward and may include lighting and other elements.

**Responsible supervisory control** - The direct responsibility for supervision by a licensed interior designer of the work and the decision making process, i.e., to review, enforce, and control compliance with all design criteria and life safety requirements. Each location designated for the practice of interior design must have a licensed interior designer who shall bear the regulatory responsibility for any interior design work at that location. This licensed interior designer must provide responsible supervisory control over any non-licensed persons working in the practice of interior design at that location.

**Space planning** - The analysis and design of spatial and occupancy requirements, including space layouts and final planning.

**Specifications** - The detailed written description of construction, workmanship, and materials of the work to be undertaken.

**Sustainability** - The use of resources in such a way that they are not depleted; a method of practice or use of materials that is capable of being continued with minimal long-term effect on the environment.

3299.2 The definitions in § 3399 of Chapter 33 of this Title are incorporated by reference and are applicable to this chapter.

All persons desiring to comment on these proposed regulations should submit comments in writing to Paul Waters, Legislative Liaison, Department of Consumer and Regulatory Affairs, Suite 9400, 941 North Capitol Street, NE, Washington, D.C. 20002, not later than thirty (30) days after publication of this notice in the D.C. Register. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar (\$1.00) will be charged for each copy of the proposed rulemaking requested.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS****NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in D.C. Official Code § 47-2853.10(a)(12) and Mayor's Order 2000-70, dated May 2, 2000, hereby gives notice of the intent to adopt, in not less than thirty (30) calendar days from the date of publication of this notice in the D.C. Register, an amendment to 17 DCMR Chapter 33, Section 3300.1 and a new 17 DCMR Chapter 34 (Architects). This rulemaking amends Architecture licensing rules and administrative procedures in order to reflect changes in the law and the profession.

17 DCMR Chapter 33, Section 3300.1 is amended to read as follows:

- 3300.1        This chapter shall apply to applicants for and holders of a license to practice a profession or occupation regulated by the following boards:
- (a) The Board of Funeral Directors for the District of Columbia, established by §4 of the District of Columbia Funeral Services Regulatory Act of 1984 (D.C. Law 5-84, D.C. Official Code § 3-401 et seq. (2001));
  - (b) The Board of Veterinary Examiners for the District of Columbia, established by § 6 of the Veterinary Practice Act of 1982 (D.C. Law 4-171, D.C. Official Code § 3-505 (2001));
  - (c) The Board of Real Estate Appraisers, established by § 2(c) of the Non-Health Related Occupations and Professions Licensure Amendment Act of 2006 (D.C. Law 16-130, D.C. Official Code § 47-2853.06(g) (2001));
  - (d) The Barber and Cosmetology Board established by the Second Omnibus Regulatory Reform Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.06 (c) (2001));
  - (e) The Board of Professional Engineering established by the Second Omnibus Regulatory Reform Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.06 (c) (2001)); and
  - (f) The Board of Architecture and Interior Designers, established by the Second Omnibus Regulatory Reform Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.06(a) (2001)).

17 DCMR Chapter 34 is amended to read as follows:

**CHAPTER 34 ARCHITECTS**

Secs.

- 3400 Applicability
- 3401 General Provisions
- 3402 Qualifications for Licensure
- 3403 Licensure by Examination
- 3404 Waiver of the Education and IDP Requirements
- 3405 Reciprocal Licensure
- 3406 Display of License
- 3407 Term of a License
- 3408 License Renewal
- 3409 Inactive Status
- 3410 Scope of Practice
- 3411 Disciplinary Actions
- 3412 Rules of Professional Conduct
- 3413 Seal of an Architect
- 3499 Definitions

**3400           APPLICABILITY**

- 3400.1       This chapter shall apply to applicants for and holders of a license to practice architecture.
- 3400.2       Chapter 33 of this Title shall supplement this chapter.
- 3400.3       The provisions of this chapter and the Act shall prevail in the event of a direct and irreconcilable conflict between this chapter or the Act and Chapter 33 of this Title.

**3401           GENERAL PROVISIONS**

- 3401.1       The Board of Architecture and Interior Designers (hereinafter referred to as the "Board"), established by the Second Omnibus Regulatory Reform Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.01 et seq.), shall be under the administrative control of the Mayor through the Department of Consumer and Regulatory Affairs (hereinafter referred to as the "Department").
- 3401.2       Each architect member of the Board must be a licensed architect.
- 3401.3       The Board shall, at its offices, maintain a record of duly licensed architects that shall include their name, license number, and last known mailing address.
- 3401.4       Communications with Board members and Board staff shall be limited as follows:

- (a) Prior to the filing of an application or after final Board action on an application, verbal and written communication with individual Board members or any member of the Board's staff shall be freely permitted; provided, however, that no member of the Board or its staff is authorized to give any indication of what specific action the Board may take upon the merits of any application which may be filed with it;
- (b) Advice of a general nature may be given as to the manner of completing or submitting applications, the procedures to be followed in processing applications, and the nature of the Board's standards in evaluating applications; and
- (c) While an application for licensure or an enforcement proceeding is pending before the Board, no communications may be initiated with any individual Board member concerning the matter; any inquiries must be made orally or in writing to the Board staff or in writing to the Board.

- 3401.5 The Board may maintain membership in the National Council of Architectural Registration Boards (NCARB). As part of the Board's activities, the Board shall endeavor to keep up-to-date information on the recommended policies adopted by NCARB. The Board may cooperate with NCARB in establishing uniform standards of architectural registration throughout the United States, but is under no obligation to do so.
- 3401.6 Any forms prepared in accordance with this chapter or the Act shall be made available upon request.
- 3401.7 Fees associated with licensure and registration may be found in Title 17 DCMR Chapter 35.
- 3401.8 The Department shall maintain copies of all records and papers pertaining to licensure, certification, registration, inspections, investigations, and other matters under the jurisdiction of the Board. Copies of all records and papers duly certified and authenticated by the Board or its staff shall be received in evidence in all courts equally and with like effect as the original.
- 3401.9 Public records kept by the Department on behalf of the Board under the authority of this section shall be open to public inspection pursuant to the D.C. Freedom of Information Act. None of any licensed architect's examination record shall be considered public record.
- 3401.10 The Board shall meet in public session not less than four (4) times per year and shall publish notice of the time and place of each public meeting in the D.C. Register at least one (1) week in advance of the meeting. The public has the right to appear before the Board and testify on subjects within the Board's jurisdiction.



- 3401.11 The Chairperson shall be elected from among the members of the Board and shall have authority to sign all official documents issued on behalf of the Board, after approval by the Board.
- 3401.12 Four (4) members of the Board shall constitute a quorum.
- 3401.13 Once quorum is established, a majority vote of all Board members present and voting is necessary for any action taken by the Board.
- 3401.14 Board members may convene in committees of no less than three (3) Board members to carry out specific functions of the Board, provided the full Board ratifies the actions of any committee.

**3402 QUALIFICATIONS FOR LICENSURE**

- 3402.1 To be granted licensure, an applicant:
- (a) Shall be at least 18 years of age;
  - (b) Shall be of good moral character;
  - (c) Shall not have been convicted of an offense that bears directly on the applicant's fitness to be licensed.
    - (1) When reviewing a applicant's criminal history, the Board shall follow the guidelines set forth in 1 DCMR § 114 and the Act;
  - (d) Shall meet any other requirements established by the Board to ensure the applicant has had the proper training, experience, and qualifications to practice architecture; and
  - (e) Shall pay the required fees.
- 3402.2 In evaluating an application and prior to issuing a license, the Board may require substantiation of the quality and character of the applicant's experience, notwithstanding the fact that the applicant has complied with the requirements set forth in this section.
- 3402.3 At the time of the filing of the application, all required fees and documents shall accompany the application. Each application shall be sworn to or affirmed before a notary public or, if applicable, by electronic signature or other authentication methods as authorized by the Council of the District of Columbia or the Mayor.

**3403 LICENSURE BY EXAMINATION**

- 3403.1 An applicant for licensure by examination shall:
- (a) Hold a professional degree in architecture from a degree program that has been accredited by the National Architectural Accrediting Board (NAAB) or the Canadian Architectural Certification Board (CACB) not later than two (2) years after termination of applicant's enrollment; or hold a professional degree in architecture from a Canadian university certified by CACB; or, for foreign-educated applicants, have satisfied the NCARB education standard as verified by an Educational Evaluation Services for Architects (EESA) evaluation report;
  - (b) Satisfy the Intern Development Program (IDP) training requirements in accordance with Appendix A of this chapter; and
  - (c) Pass the Architect Registration Examination (A.R.E.) in accordance with NCARB standards in effect at the time the applicant took the examination. After receiving his or her professional degree, an applicant may take portions of the A.R.E., provided that all IDP requirements are completed before licensure is obtained.
- 3403.2 The Board may request NCARB to determine an applicant's eligibility, subject to the Board's final approval; and the Board shall accept the A.R.E. results as determined by NCARB.
- 3403.3 An applicant shall retain credit for division sections passed on the examination for a term of five (5) years from the date the first division of the examination was taken or from January 1, 2005, for applicants who passed the first division of the examination prior to that date. An applicant must complete a new application for re-examination and pay the required fees each time the applicant seeks to retake any division of the examination.
- 3404 WAIVER OF THE EDUCATION AND IDP REQUIREMENTS**
- 3404.1 The Board may exempt an applicant from the education and IDP requirements when the applicant holds a current and valid certification issued by NCARB, and the applicant submits to the Board satisfactory evidence of such certification.
- 3405 RECIPROCAL LICENSURE**
- 3405.1 An applicant who holds a current and valid certification issued by NCARB, submits to the Board satisfactory evidence of such certification, and meets the requirements as set forth in this chapter and the Act, shall be licensed if the applicant:
- (a) Holds a current and valid registration as an architect issued by a registration authority of the United States or Canada, and submits to the

Board satisfactory evidence of such registration;

- (b) Files an application with the Board, upon a form prescribed by the Board, containing such information concerning the applicant as the Board considers pertinent, and is deemed satisfactory by the Board; and
- (c) Has paid the required fees to the District.

**3406        DISPLAY OF LICENSE**

- 3406.1        A licensee shall display his or her license conspicuously in the licensee's principal place of business or employment.

**3407        TERM OF A LICENSE**

- 3407.1        A license to practice architecture shall expire at midnight of April 30th of each even numbered year.

**3408        LICENSE RENEWAL**

- 3408.1        A licensed architect shall not file an application for renewal if the Board has suspended the applicant's license.
- 3408.2        At least sixty (60) days prior to the expiration of a license, the Board shall send a renewal application by first class mail to the holder of a license at the licensee's known address on record with the Board.
- 3408.3        A holder of a license shall meet all of the requirements for license renewal prior to the issuance of the renewal.
- 3408.4        A holder of a license shall provide the Board a street address for the licensee's residence, not a post office box, and shall notify the Board in writing of any change of home or business address within thirty (30) days of the change.
- 3408.5        The failure of a holder of a license to receive the notice required by § 3408.2 of this chapter does not relieve the holder of the responsibility of renewing the license.
- 3408.6        An applicant for renewal of an architect's license shall submit the renewal application in a timely manner to the Board and shall complete the continuing education requirements before the expiration date of the license.
- 3408.7        To renew registration, in addition to all other requirements, an architect must have acquired twenty-four (24) Professional Development Units (PDU) for each two (2) year renewal period since the last renewal or initial registration. To qualify for credit, the PDUs must be approved by NCARB or the American Institute of

Architects (AIA). At least sixteen (16) PDUs shall be in Health, Safety and Welfare subjects acquired in structured educational activities, and the remaining eight (8) shall be in Health, Safety and Welfare Subjects, but may be in either structured educational activities or in individual planned educational activities. Architects on inactive status, such as emeritus architects, and civilians called to active duty, may be exempted from this requirement at the sole discretion of the Board.

- 3408.8 A holder of a license who fails to renew before the expiration date may renew the license within sixty (60) days after expiration by completing all renewal requirements and paying an additional late renewal fee. Upon renewal, the holder shall be deemed to have possessed a valid license during the period between the expiration of the license and its renewal.
- 3408.9 If a holder of a license fails to renew the license within sixty (60) days after its expiration, the license shall be deemed to have lapsed on the date of expiration and the holder shall be required to apply for reinstatement of the expired license and pay the required reinstatement fee.
- 3408.10 Denial of an application for renewal for failure to complete the continuing education requirements shall require the applicant to complete the continuing education requirements prior to submitting an application for reinstatement.

**3409 INACTIVE STATUS**

- 3409.1 Upon application by a licensee and payment of the required fee, the Board shall place a licensee on inactive status.
- 3409.2 While on inactive status, an individual shall not practice, attempt to practice, or offer to practice architecture in the District of Columbia.
- 3409.3 A licensee may remain on inactive status for up to five (5) years from the date of application, and shall notify the Board of any address change within thirty (30) days of the change.
- 3409.4 The Board shall issue a license to an individual who is on inactive status and who desires to resume practice, if the individual meets the following requirements:
- (a) Files an application with the Board;
  - (b) Pays the required fees;
  - (c) Demonstrates compliance with all continuing education requirements; and
  - (d) Complies with all current requirements for license renewal.

- 3409.5 A lapsed license cannot be placed on inactive status. The license must first be reinstated, as provided in D.C. Official Code § 47-2853.15, provided the license has not been expired for more than five (5) years.

**3410 SCOPE OF PRACTICE**

- 3410.1 For the purposes of this chapter, the term "practice of architecture" means rendering or offering to render services in connection with the design and construction, enlargement, or alteration of a structure or group of structures that have as their principal purpose human occupancy or habitation, as well as the space within and surrounding these structures. These services include planning and providing studies, designs, drawings, specifications, and other technical submissions, and the administration of construction contracts. The practice of architecture does not include the practice of engineering, as defined in D.C. Official Code § 47-2853.131, although an architect may perform engineering work that is incidental to the practice of architecture.

**3411 RULES OF PROFESSIONAL CONDUCT**

- 3411.1 In engaging in the practice of architecture, a licensed architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill that are ordinarily applied by licensed architects of good standing practicing in the same locality.
- 3411.2 In designing a project, a licensed architect shall take into account all applicable federal, state, and municipal building laws and regulations. While a licensed architect may rely on the advice of other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, a licensed architect shall not knowingly design a project in violation of such laws and regulations.
- 3411.3 A licensed architect shall undertake to perform professional services only when he or she, together with those whom the licensed architect may engage as consultants, is qualified by education, training, and experience in the specific technical areas involved.
- 3411.4 A licensed architect shall not accept compensation for his or her services from more than one party on a project unless the circumstances are fully disclosed in writing and agreed to by all interested parties.
- 3411.5 The licensed architect shall fully disclose in writing to his or her client or employer any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with the performance of professional services.
- 3411.6 When making public statements on architectural questions, a licensed architect

shall disclose when he or she is being compensated for making such statements.

- 3411.7 If, in the course of his or her work on a project, a licensed architect becomes aware of a decision made by his or her employer or client, against such licensed architect's advice, which will result in a violation of any applicable federal, state, or municipal building laws or regulations and which will, in the licensed architect's judgment, materially and adversely affect the safety to the public of the finished project, the licensed architect shall:
- (a) Report the decision to the local building inspector or other public official charged with enforcement of the applicable federal, state, or municipal building laws and regulations; and
  - (b) Refuse to consent to the decision.
- 3411.8 A licensed architect shall not willfully make a materially false statement or fail willfully to disclose a material fact requested in connection with his or her application for a license or renewal or reinstatement of a license.
- 3411.9 A licensed architect shall not assist the application for licensure of an individual known by the licensed architect to be unqualified with respect to education, training, experience, or character.
- 3411.10 A licensed architect possessing knowledge of a violation of the provisions set forth in § 3411.1 through § 3411.16 by another licensed architect shall report such knowledge to the Board.
- 3411.11 A licensed architect shall not, in the conduct of this or her practice, knowingly violate any municipal, state, or federal criminal law.
- 3411.12 A licensed architect shall neither offer nor make any payment or gift to a government official (whether elected or appointed) with the intent to influence the official's judgment in connection with a prospective or existing project in which the licensed architect is interested.
- 3411.13 A licensed architect shall comply with the licensing laws and regulations governing his or her professional practice in any United States jurisdiction.
- 3411.14 Each office located in the District of Columbia maintained for the preparation of drawings, specifications, reports, or other professional work shall have a licensed architect resident and regularly employed in that office having direct supervision of such work.
- 3411.15 A licensed architect shall not sign or seal technical submissions unless they were prepared by the architect or under his or her direct supervision; provided, however, that in the case of portions of such technical submission prepared under

the direct supervision of another licensed architect employed by the first licensed architect (or by his or her firm), he or she may sign and seal those portions of the technical submissions if he or she has reviewed such portions and has coordinated their preparation.

- 3411.16 A licensed architect shall neither offer nor give any gifts, other than gifts of nominal value (including, for example, reasonable entertainment and hospitality) with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the licensed architect is interested.

## **3412 DISCIPLINARY ACTIONS**

- 3412.1 Upon providing notice and an opportunity for hearing in accordance with the Act and Chapter 33 of this Title, the Board may revoke, suspend, refuse to renew, or deny an application for a license by a licensee or applicant for any violation of this chapter or the Act.

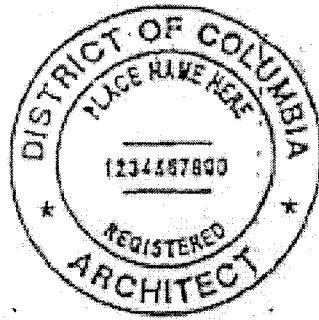
- 3412.2 If the Board determines that there is a violation of this chapter or the Act, the Board may take any of the actions specified in § 3411.1 of this chapter or any one or more of the following lesser actions:

- (a) Reprimand the architect;
- (b) Place the architect on probation for a specified period;
- (c) Impose limitations on the license of the architect; or
- (d) Require a course of remediation approved by the Board that may include retraining and, at the discretion of and in the manner prescribed by the Board, reexamination.

- 3412.3 If the Board places an architect on probation, imposes a limitation on the license of an architect, or requires a course of remediation, the Board may provide that if the architect fails to satisfy the conditions of probation, observe the limitations imposed on the license, or complete the course or remediation, the Board may suspend or revoke the architect's license.

## **3413 SEAL OF AN ARCHITECT**

- 3413.1 Each licensed architect shall procure a seal, which shall contain the name of the licensed architect, his or her license number, and the words LICENSED ARCHITECT-DISTRICT OF COLUMBIA. This seal shall comply in all respects, including size and format, with the specimen shown below:



- 3413.2 The seal shall be evidence of the authenticity of the document and shall be imprinted on all technical submissions, as follows:
- (a) each design and each drawing;
  - (b) on the cover and index pages identifying each set of specifications; and
  - (c) on the cover page (and index, if applicable) of all other technical submissions.
- 3413.3 The seal appearing on any technical submission shall be prima facie evidence that the technical submission was prepared by or under the direct supervision of the individual named on the seal.
- 3413.4 No licensed architect shall affix or permit to be affixed his or her seal or signature to any technical submission which depicts work which he or she is not competent to perform.
- 3413.5 No licensed architect shall affix his or her seal or signature to any technical submission that was not prepared by him or her or under his or her direct supervision or by another licensed architect and reviewed, approved, or modified and adopted under his or her direct supervision.
- 3413.6 When the license of a licensed architect has been revoked or suspended by the Board, the licensed architect shall surrender his or her seal to the secretary of the Board within a period of thirty (30) days after the revocation or suspension has become effective. If the license of the architect has been suspended for a period of time, his or her seal shall be returned upon expiration of the suspension period. The seal shall not be used for any purpose after the effective date of any suspension or revocation.
- 3413.7 The licensed architect, when affixing his or her seal to any technical submission or any other instruments of services, shall affix his or her name, by handwritten signature, across the printed image of the seal.
- 3413.8 All technical submissions or other instruments of services shall be identified as



architecture documents.

**3499            DEFINITIONS**

**3499.1** As used in this chapter, the following words or phrases terms shall have the meanings ascribed:

**Act** – The Second Omnibus Regulatory Reform Act of 1998 (D.C. Law 12-261; D.C. Official Code § 47-2853.01 et seq.) (2001).

**AIA** – The American Institute of Architects.

**Applicant** – A person who has submitted an application for licensure to the Board.

**A.R.E.** – The current Architect Registration Examination prepared by NCARB.

**Board** – The Board of Architecture and Interior Designers, as established by the Act.

**Direct supervision** – Personal oversight by an individual who has control over, and detailed professional knowledge of, the work prepared.

**Examination** – The current Architect Registration Examination (A.R.E.), as accepted by the Board.

**IDP** – Intern Development Program.

**IDP applicant** – An individual who has completed the IDP training requirements set forth in § 3403.1 and has submitted an application for licensure to the Board.

**Licensed architect** – a person licensed to practice architecture under this chapter.

**NAAB** – The National Architectural Accrediting Board.

**NCARB** – The National Council of Architectural Registration Boards.

**PDU** – Professional Development Unit.

**Registered architect** - An architect registered in a United States or Canadian jurisdiction.

**Technical submissions** – Studies, designs, drawings, specifications, and any other technical documentation prepared in the course of the practice of architecture.

**TU** – Training unit used to calculate the hours of training earned by IDP applicants.

**3499.2** The definitions in § 3399 of Chapter 33 of this Title are incorporated by

references and are applicable to this chapter.

## APPENDIX A

### **IDP TRAINING REQUIREMENTS - TRAINING CATEGORIES AND TRAINING UNIT REQUIREMENTS**

An IDP applicant must acquire a total of seven hundred (700) training units (TU's) to satisfy the IDP training requirements.

One (1) TU equals eight (8) hours of acceptable activity in an acceptable work setting. The following chart lists the IDP training categories and areas, and the minimum TU requirements for each:

#### **CATEGORY A: Design and Construction Documents**

1. Programming .....	10
2. Site and Environmental Analysis .....	10
3. Schematic Design .....	15
4. Engineering Systems Coordination .....	15
5. Building Cost Analysis .....	10
6. Code Research .....	15
7. Design Development .....	40
8. Construction Documents .....	135
9. Specifications & Materials Research .....	15
10. Documents Checking & Coordination .....	10
Elective Units in this Category .....	75
<b>Minimum Total TU's Required .....</b>	<b>350</b>

#### **CATEGORY B: Contract Administration**

11. Bidding & Contract Negotiation .....	10
12. Construction Phase-Office .....	15
13. Construction Phase-Observation .....	15
Elective Units in this Category .....	30
<b>Minimum Total TU's Required .....</b>	<b>70</b>

#### **CATEGORY C: Management**

14. Project Management .....	15
15. Office Management .....	10
Elective Units in this Category .....	10
<b>Minimum Total TU's Required .....</b>	<b>35</b>

#### **CATEGORY D: Related Activities**

16. Professional and Community Service .....	10
Other Related Activities .....	0

**Minimum Total TU's Required ..... 10**

**Total TU's Required ..... 700**

An applicant must have a total of seven hundred (700) TU's. The minimum required TU's in Categories A, B, C, and D total four hundred sixty-five (465). The remaining two hundred thirty-five (235) TU's may be acquired in any of the listed categories, including supplementary education units.

All persons desiring to comment on these proposed regulations should submit comments in writing to Paul Waters, Legislative Liaison, Department of Consumer and Regulatory Affairs, Suite 9400, 941 North Capitol Street, NE, Washington, D.C. 20002, not later than thirty (30) days after publication of this notice in the D.C. Register. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar (\$1.00) will be charged for each copy of the proposed rulemaking requested.

## DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Interim Director of the Department of Health, pursuant to the authority set forth in section 3(a) of the Preventive Health Services Amendments Act of 1985 ("Act"), effective February 21, 1986, D.C. Law 6-83, D.C. Official Code § 7-131(a) (2001) and Mayor's Order 98-141, dated August 20, 1998, hereby gives notice of his intent to adopt the following amendment to Chapter 2 of Title 22 of the District of Columbia Municipal Regulations (DCMR) (Public Health and Medicine)(August 1986) in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. This proposed rule would require health care providers to report cases of novel influenza A by phone within two hours and in writing within 24 hours.

The Interim Director also gives notice of his intent to take final rulemaking action to adopt these proposed rules not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

**Chapter 2 of Title 22 DCMR (Public Health & Medicine) (August 1986) is amended as follows:**

**Section 201.1 is amended as follows:**

**Paragraphs (p) and (q) are amended to read as follows:**

(p) Yellow fever;

(q) Novel influenza A; and

**A new paragraph (r) is added to read as follows:**

(r) An unusual occurrence of any disease.

**Section 299.1 is amended by adding the following new definition to read as follows:**

**Novel influenza A**—a virus subtype that is different from currently circulating human influenza H1 and H3 viruses. Novel subtypes include H2, H5, H7, and H9. Influenza H1 and H3 subtypes originating from non-human species or from genetic reassortment between animal and human viruses are also novel subtypes.

Persons desiring to comment on these proposed rules should submit comments in writing to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4<sup>th</sup> Floor, Washington, D.C. 20002, no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of these proposed rules may be obtained between 8:30 A.M. and 5:00 P.M. at the address stated above.

## DEPARTMENT OF HEALTH

**NOTICE OF PROPOSED RULEMAKING**

The Interim Director of the Department of Health, pursuant to the authority set forth in section 1 of An Act To authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, approved August 11, 1939 (53 Stat. 1408, ch. 691; D.C. Official Code § 7-131) (2001), and section 2 of Mayor's Order 98-141, dated August 20, 1998, hereby gives notice of his intent to adopt, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, the following amendments to Chapter 2 of Title 22 of the District of Columbia Municipal Regulations (DCMR) (Public Health and Medicine)(August 1986). A notice of proposed rulemaking was published in the *D.C. Register* December 14, 2007, at 54 DCR 12020. In response to the notice of proposed rulemaking, the Director received two comments, and, as a result of the comments, has made changes to the proposed rule. The proposed rules will make technical amendments, require testing of pregnant women for the presence of the Hepatitis B virus, and require vaccination of newborns for the Hepatitis B virus.

Chapter 2 of Title 22 of the District of Columbia Municipal Regulations (Public Health & Medicine) (August 1986) is amended as follows:

**Section 202.2 is amended to read as follows:**

- 202.2 In the report required in section 202.1, the physician, veterinarian, or other person in charge of the case shall include a statement of the person's instructions concerning isolation, restriction of movement, and quarantine; provided, that the statement may be limited to stating that the instructions were in accordance with the provisions of this chapter and with the latest edition of "Control of Communicable Disease in Man", published by the American Public Health Association; or, if not, the instructions shall be set forth in detail.

**Section 202.8 is amended to read as follows:**

- 202.8 Meeting the requirements of this section and observance of the provisions of the latest edition of "Control of Communicable Disease in Man", published by the American Public Health Association, shall be *prima facie* evidence that the control and management of a carrier, contact, or infected person or animal has been in accordance with good medical and public health practice.

**Section 206.2 is amended to read as follows:**

- 206.2 Physicians and others licensed to practice in the District under the District of Columbia Health Occupations Revision Act of 1985 (D.C. Official Code § 3-1201.01 *et seq.*), in charge of an AIDS diagnosis, shall report the AIDS diagnosis to the Director within forty-eight (48) hours of diagnosis and furnish information

the Director deems necessary to complete a confidential case report. Additionally, physicians and others licensed under the District of Columbia Health Occupations Revision Act of 1985 shall report a HIV positive test result to the Director or his or her designee. The physician or provider, laboratory, blood bank, or other entity or facility that provides HIV testing shall report all cases of HIV infection to the Director or his or her designee.

**A new section 207 is added to read as follows:**

**207 HEPATITIS B TESTING AND VACCINATION**

207.1 A provider that attends to, treats, or examines a pregnant woman or provides perinatal treatment shall:

- (a) Take a blood sample during the first prenatal visit and submit the sample to a laboratory approved by the Department for testing for Hepatitis B Surface Antigen (HBsAg);
- (b) Take a blood sample at the time of delivery if the woman has not had prior perinatal services or no documentation of HBsAg status, and submit the sample to a laboratory approved by the Department for testing HBsAg;
- (c) Maintain a record of the woman's Hepatitis B status in her patient file; and
- (d) Make a report according to the requirements of section 201.5.

207.2 A provider that delivers a newborn shall:

- (a) Document the mother's Hepatitis B status in the newborn's records;
- (b) Immunize the newborn for the Hepatitis B virus; and
- (c) Make a report according to the requirements of section 207.7.

207.3 A newborn whose mother tests positive for HBsAg shall:

- (a) Receive Hepatitis B immunoglobulin (HBIG) and Hepatitis B vaccine within twelve (12) hours of birth according to the recommendations of the Advisory Committee on Immunization Practices (ACIP);
- (b) Receive a complete Hepatitis B series according to the schedule found at 22 DCMR § 135; and
- (c) Receive post-vaccination testing for the presence of HBsAg and Hepatitis B Surface Antibody (HBsAb) three (3) months after the last dose of

Hepatitis B vaccine but not earlier than nine (9) months of age and no later than nineteen (19) months of age.

- 207.4 A newborn whose mother's HBsAg status is unknown shall:
- (a) Receive Hepatitis B vaccine without HBIG within twelve (12) hours of birth;
  - (b) Receive HBIG as soon as possible but no later than seven (7) days after birth if the newborn's mother tests positive for HBsAg;
  - (c) Receive a complete Hepatitis B series according to the schedule found at 22 DCMR §135; and
  - (d) Receive post-vaccination testing for the presence of HBsAg and Hepatitis B Surface Antibody (HBsAb) three (3) months after the last dose of Hepatitis B vaccine but not earlier than nine (9) months of age and no later than nineteen (19) months of age.
- 207.5 A full-term medically stable newborn weighing two thousand grams (2000g) or more born to a mother who is HBsAg-negative shall:
- (a) Receive Hepatitis B vaccine before hospital discharge; and
  - (b) Receive a complete Hepatitis B series according to the schedule found at 22 DCMR § 135.
- 207.6 A pre-term newborn weighing less than two thousand grams (2000g) born to a mother who is HBsAg-negative shall:
- (a) Receive the first dose of Hepatitis B vaccine one (1) month after birth or at hospital discharge; and
  - (b) Receive a complete Hepatitis B series according to the schedule found at 22 DCMR § 135.
- 207.7 In addition to the reporting requirements of section 201.5, a provider shall also report the following in the manner and form the Director requires:
- (a) The date and time that Hepatitis B vaccine was administered;
  - (c) The date and time that Hepatitis B immunoglobulin was administered;
  - (d) The manufacturer of the vaccine; and

- (e) The vaccine lot number.

207.8 A newborn's parent or legal guardian shall be deemed to have consented to Hepatitis B vaccination, unless the newborn's parent or legal guardian submits a signed request for exemption that states the reasons for the exemption. A newborn may be exempted from vaccination if:

- (a) The newborn's mother tested negative for HBsAg;
- (b) The newborn's parent or legal guardian objects in good faith and in writing that immunization would violate his or her religious beliefs; or
- (c) The newborn's parent or legal guardian provides the written certification of a physician that immunization is medically inadvisable.

207.9 Information disclosed to the Department pursuant to this section shall be kept confidential and shall not be disclosed to a third party, except as provided in this subsection. The Department may use and disclose information received pursuant to this section as follows:

- (a) The Director may use patient-specific immunization information:
  - (1) To produce aggregate immunization coverage reports and to track Hepatitis B levels;
  - (2) To ensure that newborns receive Hepatitis B immunization;
  - (3) To conduct follow-up on infants born to HBsAg positive mothers; and
  - (4) For statistical and public health purposes.
- (b) Except as provided in subsection (a), the Director may disclose a person's individually identifiable information to a third party only with written consent of the person, or the person's parent or guardian if the person is under eighteen (18) years of age or an unemancipated adult.

**Section 210.8 is amended to read as follows:**

210.8 The Director shall issue a Removal and Detention Order and take whatever further proceedings may be required by sections 1 through 14 of the Act (D.C. Official Code §§ 7-131 through 7-144) (2001), whenever the Director has probable cause to believe that any person is affected with, or is a carrier of, a communicable disease, and whenever the Director has probable cause to believe that that person



is likely to be dangerous to the life or health of any other person because of the following reasons:

- (a) Improper facilities or the lack of facilities for isolation; or
- (b) Because of the person's non-cooperation or carelessness, including his or her refusal to submit to examination or refusal to be properly treated or cared for, the person is likely to be a danger to public health.

**Section 299.1 is amended as follows:**

Repeal the definitions for "Commission" and "Commissioner"

Amend the definition for the term "Act" to read as follows:

**Act**—an Act To authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, approved August 11, 1939 (53 Stat. 1408 ch. 691; D.C. Official Code § 7-131 *et seq.* (2001)), as amended.

Amend the definition for the term "Health care provider" to read as follows:

**Health care provider or provider**—a health care clinic, a physician, a health maintenance organization, a nurse, a hospital, a charitable organization that provides medical care or advice, or any other entity that provides medical care or advice.

Add the following new definitions:

**ACIP**—the Advisory Committee on Immunization Practices of the CDC.

**CDC**—the Centers for Disease Control and Prevention of the federal government.

**HBIG**—hepatitis B immunoglobulin.

**HBsAg**—a serological laboratory test marker indicating infection with the Hepatitis B virus.

**HBsAb**—a serological laboratory test marker indicating immunity to Hepatitis B infection.

**Newborn**—an infant born in the District who is under 4 weeks of age.

**Perinatal**—the period before, during, and after the time of birth from the twenty-eighth (28<sup>th</sup>) week of gestation through the first seven (7) days after delivery.

All persons desiring to comment on the proposed rulemaking shall submit written comments no later than thirty (30) days after the date of publication of this notice in the D.C. Register, to the Office of the General Counsel, Department of Health, 4<sup>th</sup> Floor, 825 North Capitol Street, N.E.,

Washington, D.C. 20002. Copies of the proposed rule may be obtained between the hours of 9:00 A.M. and 5:00 P.M. at the address listed above.

## DEPARTMENT OF INSURANCE, SECURITIES, AND BANKING

## NOTICE OF PROPOSED RULEMAKING

The Commissioner of the Department of Insurance, Securities, and Banking, pursuant to the authority set forth in section 101(b) of the Medical Malpractice Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-263; D.C. Official Code §§ 31-2703(f-1)(1)(B) and (f-1)(3)), hereby gives notice of his intent to establish a new Chapter 53, Title 26 (Insurance), of the District of Columbia Municipal Regulations in not less than thirty days from the date of the publication of this notice in the *D.C. Register*. The new chapter will set forth hearing rules and rate filing requirements for medical malpractice liability insurance companies.

A new Chapter 53 (Medical Malpractice Rules and Rate Filing Requirements), Title 26 (Insurance), of the District of Columbia Municipal Regulations, is established to read as follows:

**CHAPTER 53    MEDICAL MALPRACTICE LIABILITY  
HEARING RULES AND RATE FILING  
REQUIREMENTS**

**5301        PURPOSE**

5301.1      The purpose of this rule is to implement the provisions of an Act to provide for regulation of certain insurance rates in the District of Columbia, and for other purposes, approved May 20, 1948 (62 Stat. 242; D.C. Official Code § 31-2701 *et seq.*), as amended by the "Medical Malpractice Amendment Act of 2006," effective March 14, 2007 (D.C. Law 16-263; 54 DCR 807)(hereinafter the "Act"), and to safeguard the public interest by allowing reasonable inspection and analysis of medical malpractice liability company rate plans and premium rates.

**5302        FILING REQUIREMENTS AND PUBLIC NOTIFICATION**

5302.1      All companies writing medical malpractice liability insurance in the District are subject to the provisions of this chapter. Every company shall file with the Commissioner of the Department of Insurance, Securities, and Banking (hereinafter the "Commissioner" and the "Department"), either directly or through a licensed rating organization of which it is a member or subscriber, all rates and rating plans, rules, and classifications which it uses or proposes to use in the District.

5302.2      All rate filings are required to be submitted on-line via the National

Association of Insurance Commissioner's System for Electronic Rate and Form Filing ("SERFF"). All such information requested as a part of a SERFF filing must be submitted or else the filing will not be accepted and will be deemed incomplete.

- 5302.3 The Commissioner shall notify the public, via a posting on the Department's website or any other means reasonably designed to provide meaningful and timely notice, of any application by a medical malpractice insurer of a premium rate change increase.
- 5302.4 The application shall be deemed approved sixty (60) days after public notice unless the proposed rate change increase exceeds ten percent (10%). If the proposed rate increase exceeds ten percent (10%), the Commissioner shall hold a hearing on the proposed change and shall issue an order approving, denying or modifying the proposed change within ninety (90) days after public notice of the proposed change.
- 5302.5 All information contained in a rate change application shall be made available to the public when requested or sought in accordance with the District of Columbia's Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*) ("FOIA"). It shall be the responsibility of the medical malpractice insurer filing an application to conspicuously mark and identify any and all documents for which the insurer desires to assert a confidential, proprietary, or privilege status. Any information not clearly marked in the rate change application will be available, upon proper request, for public inspection, including but not limited to, and at the Department's discretion, being posted on the Department's website.

### **5303 ADJUSTMENTS OF RATES**

- 5303.1 Whenever it shall be made to appear to the Commissioner, either from his own information or from a complaint of any party alleging to be aggrieved thereby, that there are reasonable grounds to believe that the rates on any or on all risks or classes of risk or kinds of insurance within the scope of the Act, are excessive, inadequate or unfairly discriminatory, it shall be the Commissioner's duty, and he or she shall have the full power and authority, to investigate the necessity for an adjustment of any or all such rates.
- 5303.2 After an investigation of the rates, the Commissioner shall, before ordering an adjustment, hold a hearing after not less than 10 days written notice specifying the matters to be considered at the hearing, to every company and rating organization which filed the rates, provided, the Commissioner shall not be required to hold the hearing if he or she is advised in writing by every such company and rating organization admitted to write medical malpractice insurance in the District that they do not wish to contest the adjustment and

thereby are waiving any right they may have to a hearing. The hearing shall be conducted in accordance with the hearing regulations provided at Chapter 38 of Title 26 of the District of Columbia Municipal Regulation ("DCMR"), and the cost shall be borne by the insurance company requesting the rate increase.

- 5303.3 If, after the hearing, the Commissioner determines that any of the rates are excessive, inadequate or unfairly discriminatory, the Commissioner shall order an adjustment.
- 5303.4 An order of adjustment shall not affect any contract or policy made prior to the effective date of the order unless:
- (1) The adjustment is substantial and exceeds the cost to the companies of making the adjustment; and
  - (2) The order is made after the prescribed investigation and hearing and within 30 days after the filing of the rates affected.
- 5303.5 In determining the necessity for an adjustment of rates, the Commissioner shall be bound by the provisions of section 3 of the Act (D.C. Official Code § 31-2703).

#### **5304 MANDATORY HEARINGS**

- 5304.1 All hearings commenced as a result of a rate change increase exceeding ten percent (10%) shall be conducted in accordance with the Department's rules of practice and procedures for hearings found at 26 DCMR § 3800 *et seq.*
- 5304.2 In a hearing held by the Commissioner pursuant to this chapter, any person shall have the right to testify. However, the right to testify in a hearing under this chapter does not by itself confer upon such person the status of "party," as defined at 26 DCMR § 3819.

#### **5305 USE OF EXPERIENCE OUTSIDE OF THE DISTRICT**

- 5305.1 If a company is filing a new or "introductory rate filing," then the company will be permitted to use countrywide experience in support of the new product. If a company is filing to revise or adjust an existing rate but lacks actuarially credible experience for the District, then the company may use countrywide experience to supplement any of their District experience.
- 5305.2 Regardless of whether a filing is a new or introductory rate filing, or a revision to an existing rate, all companies must adequately explain why their experience for the District is not actuarially credible and how the experience they are using in place or as a supplement to their District experience is an

appropriate substitute to support the rate filing.

- 5305.3 For the purposes of this section, an "introductory rate filing" shall mean an initial rate filing by a company that has not written medical malpractice liability insurance in the District, either directly or through an affiliate, within the past five-years (5) of the filing at issue. All other rate filings will be considered revisions or adjustments unless the Commissioner, upon request, expressly deems a filing to be an "introductory rate filing."

Persons desiring to comment on these proposed rules should submit comments in writing to Ms. Leslie E. Johnson, Hearing Officer, Department of Insurance, Securities and Banking, 810 First Street, N.E., Suite 701, Washington, D.C. 20002. Comments must be received not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained from the Department at the address above.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1333 H STREET, N.W., 2<sup>nd</sup> FLOOR, WEST TOWER  
WASHINGTON, D.C. 20005

**NOTICE OF PROPOSED RULEMAKING**

**ET08-1, IN THE MATTER OF THE POTOMAC ELECTRIC POWER COMPANY'S  
SCHEDULES "SSL-OH" AND "SSL-UG", P.S.C.-D.C. No.1**

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Official Code,<sup>1</sup> of its intent to act upon the proposed tariff of the Potomac Electric Power Company ("PEPCO" or "Company")<sup>2</sup> in not less than thirty (30) days from the date of publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. In its filing, PEPCO proposes to revise its rate schedules to "reflect the discontinuation of Mercury Vapor Lights which will be replaced with High Pressure Sodium Lights."<sup>3</sup> PEPCO asserts that the Company is revising Schedule "SSL-OH", street lights served from overhead lines, and Schedule "SSL-UG", street lights served from underground lines, to reflect "the close out of Mercury Vapor Lights."<sup>4</sup> Specifically, PEPCO proposes to amend the following eight (8) tariff pages:

**ELECTRICITY TARIFF, P.S.C.-D.C. No. 1**

**Thirty-Eighth Revised Page No. R-1**

**Thirty-Eighth Revised Page No. R-2**

**Thirty-First Revised Page No. R-2.1**

**Seventh Revised Page No. R-2.2**

**Third Revised Page No. R-12**

**Third Revised Page No. R-12.1**

**Fifth Revised Page No. R-13**

**Fifth Revised Page No. R-13.1.**

3. This filing may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday. A copy of the proposed tariff amendment is available upon request, at a per-page reproduction cost from the Office of the Commission Secretary or via the Commission's website at [www.dcpssc.org](http://www.dcpssc.org).

4. Comments on PEPCO's proposed tariff must be made in writing to Dorothy Wideman, Commission Secretary, at the above address. All comments must be received within

<sup>1</sup> D.C. Official Code § 2-505 (2001 Ed.).

<sup>2</sup> *ET08-1, In the Matter of the Potomac Electric Power Company's Schedules "SSL-OH" and "SSL-UG", P.S.C.-D.C. No.1*, Corrected Rate Schedule and Letter from Keith Townsend, Assistant General Counsel, PEPCO., to Dorothy Wideman, Secretary, Public Service Commission of the District of Columbia (Feb. 26, 2008).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

thirty (30) days of the date of publication of this NOPR in the *D.C. Register*. Persons wishing to file reply comments may do so no later than forty-five (45) days of the date of publication of this NOPR in the *D.C. Register*. Once the comment period has expired, the Commission will take final rulemaking action on PEPCO's filing.